

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

GRANT YOAKUM, a personal representative
of the Estate of Nicholas Rodin,

No. 2:23-cv-00001-HL

Plaintiff,

ORDER

v.

CROOK COUNTY, and STEVEN HATCHER,

Defendants.

HERNÁNDEZ, District Judge:

Magistrate Judge Hallman issued a Findings and Recommendation on April 24, 2024, in which he recommends that the Court grant Defendants' Motion for Summary Judgment on Plaintiff's excessive force claim and deny the Motion on Plaintiff's wrongful death claim. F&R, ECF 47. The matter is now before the Court pursuant to [28 U.S.C. § 636\(b\)\(1\)\(B\)](#) and [Federal Rule of Civil Procedure 72\(b\)](#).

Because no objections to the Magistrate Judge’s Findings and Recommendation were timely filed, the Court is relieved of its obligation to review the record *de novo*. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge’s report to which objections have been made). Having reviewed the legal principles *de novo*, the Court corrects one point of law with respect to the excessive force claim.

In addressing whether Rodin posed an immediate threat to Defendant Hatcher or others, Judge Hallman wrote that “Hatcher only needed a *reasonable suspicion* that [Rodin] was armed” and not a reasonable belief. F&R 14 (emphasis in original). Supreme Court and Ninth Circuit caselaw is to the contrary. “‘Officers can have reasonable, but mistaken, beliefs as to the facts establishing the existence of’ an immediate threat, and ‘in those situations courts will not hold that they have violated the Constitution.’” *Est. of Strickland v. Nevada Cnty.*, 69 F.4th 614, 621 (9th Cir. 2023), *cert. denied*, 144 S. Ct. 559 (2024) (quoting *Saucier v. Katz*, 533 U.S. 194, 206 (2001), *overruled in part on other grounds by Pearson v. Callahan*, 555 U.S. 223 (2009)).

Applying this standard, the Court concludes that, for the reasons identified by Judge Hallman, there is a genuine dispute as to whether Rodin posed an immediate threat to Defendant Hatcher. *See* F&R 14-17. The Court found no other errors in Judge Hallman’s detailed and thorough Findings and Recommendation and therefore adopts it with this correction.

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CONCLUSION

The Court adopts Magistrate Judge Hallman's Findings and Recommendation [47] as modified herein. Accordingly, Defendants' Motion for Summary Judgment [23] is GRANTED as to Plaintiff's excessive force claim and DENIED as to Plaintiff's wrongful death claim.

IT IS SO ORDERED.

DATED: May 28, 2024.



MARCO A. HERNÁNDEZ
United States District Judge